

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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TEN SEVENTY ONE HOME CORP. and MORTON G.
YUTER,

Plaintiffs,

-against-

LIBERTY MUTUAL FIRE INSURANCE COMPANY,
JOSH NEUSTEIN, LEONARD W. HUTCHINGS, and
JUDY HUTCHINGS,

Defendants.

: **Docket No.: 07 CV 11211**
: **(DLC)**

: **DECLARATION OF GLENN**
: **J. FUERTH IN SUPPORT OF**
: **THIRD-PARTY**
: **DEFENDANT, GREENWICH**
: **INSURANCE COMPANY'S**
: **MOTION TO DISMISS**
: **PURSUANT TO RULE**
: **12(b)(6)**

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LIBERTY MUTUAL FIRE INSURANCE COMPANY,

Third-Party Plaintiff,

-against-

GREENWICH INSURANCE COMPANY,

Third-Party Defendant.

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GLENN J. FUERTH, an attorney duly admitted to practice before the Bar of this Court,
aware of the penalties of perjury, pursuant to 28 U.S.C. § 1746, states as follows:

1. I am a member of the firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, attorneys for the Third-Party Defendant, Greenwich Insurance Company ("Greenwich"), and as such, I am fully familiar with all of the prior pleadings and proceedings heretofore had herein that pertain to the instant action.

2. I submit this Declaration, along with the exhibits set forth herein and the annexed Memorandum of Law, in support in support of Greenwich's motion for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing Third-Party Plaintiff, Liberty Mutual Fire Insurance Company's, Third-Party Complaint on the ground that the Third-Party

Complaint fails to state a claim for which relief can be granted, and for such other and further relief as this Court deems just and proper.

3. Attached as Exhibit "A" is a true and correct copy of the underlying Plaintiff's Summons and Verified Complaint, dated May 19, 2005, ^{for} ~~for~~ the action entitled *Leonard W. Hutchings and Judy Hutchings v. Morton G. Yuter, Josh Neustein, and Ten Seventy One Home Corp.*, bearing index number of 16037/05, venued in New York Supreme Court, Bronx County.

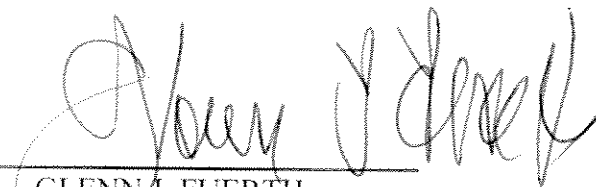
4. Attached as Exhibit "B" is a true and correct copy of Plaintiff's Summons and Verified Complaint, dated October 17, 2007, ^{for} ~~for~~ the action entitled *Ten Seventy One Home Corp and Morton G. Yuter v. Liberty Mutual Fire Insurance Company, Josh Neustein, Leonard W. Hutchings, and Judy Hutchings*, bearing civil action number of 07 Civ. 11211, venued in United States District Court, Southern District of New York.

5. Attached as Exhibit "C" is a true and correct copy of the Third-Party Plaintiff, Liberty Mutual Fire Insurance Company's, Third-Party Complaint, dated January 7, 2008.

6. Attached as Exhibit "D" is a true and correct copy of the commercial general liability insurance policy, numbered WGG 5001567, issued by Greenwich.

7. Attached as Exhibit "E" is a true and correct copy of the commercial general liability insurance policy, numbered WGG 5001564, issued by Greenwich.

Dated: New York, New York
March 17, 2008



GLENN J. FUERTH